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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-fifth session

SUMMARY RECORD OF THE 1059th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 12 August 1994, at 10 a.m.

Chairman: Mr. SHERIFIS

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GE.94-18511 (E)

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Ninth periodic report of Australia (CERD/C/223/Add.1) (continued)

1. At the invitation of the Chairman, Mr. Tickner, Mr. Dodson and Mr. Willis (Australia) took places at the Committee table.

2. Mr. WOLFRUM said he welcomed the Australian report, which he considered should serve as a model for other States parties to follow. Furthermore, as had been said by the Chairman of the Committee on Economic, Social and Cultural Rights, who was himself an Australian, the main thrust of such reports was to generate an atmosphere within a country propitious for self-assessment. From that point of view, he hoped that the report might be widely distributed in Australia itself.

3. With regard to land in Aboriginal ownership, or set aside as reserves, in some parts of Australia, he asked which environmental protection law applied in such areas - Federal law, State law or the traditional law of the indigenous community itself. Since Aboriginal traditions with respect to land varied from group to group, the matter was very relevant to preservation of the individual identity of groups.

4. Although he was conscious that the small proportion of the population represented by Aboriginal peoples, 1.5 per cent, made their full participation in the democratic process difficult, especially outside their areas of greatest concentration, he had the impression that more ought be done to increase their participation in political decision-making, not only as Members of Parliament but also as civil servants. He would like to know what action was being taken to that end.

5. He was not fully convinced of the significance of the Mabo judgement, which had affected only a small area of land, since rejection of the doctrine of terra nullius was more a policy statement than a reflection of reality. He asked what actual changes it had led to in practice.

6. Aboriginal groups were disadvantaged in many areas - health, education, housing, employment and income - and the figures provided indicated that their situation had not improved significantly since the last report. In relation to the treatment of offenders in accordance with customary law, he had heard a report that the Australian High Court had recently lifted a prison sentence for theft imposed on an Aboriginal offender under customary law and would welcome further information on the subject.

7. With regard to immigrants and asylum-seekers, especially from Asian countries, Australia's record on the treatment of "boat people" appeared to fall short of the highest standards. Such people were detained in unsatisfactory conditions in camps while their applications for asylum were being processed, and were often moved from one camp to another. In one case, a man whose application for asylum had been made in 1989 had had his application rejected in 1992. In other words, a person who had committed no

crime, but merely asked for asylum, had been held under what was equivalent to prison conditions for three years. That did not appear compatible with human rights standards. If it was not possible to provide further information on the subject at the present meeting, he would be glad if it could be included in Australia's next report.

8. Mr. VALENCIA RODRIGUEZ commended the report, which contained a wealth of facts and figures, as well as the oral introduction provided by the representatives of Australia. It was gratifying that the frank and open dialogue between the Committee and the Government of Australia and its representatives was continuing. Australia was a multiracial and multicultural society; it was noteworthy that its Government acknowledged the occurrence of acts of racial discrimination and was taking measures to combat it.

9. He asked what results had been achieved by the more than 50 projects to improve the lot of migrants mentioned in paragraphs 26-28 of the report, particularly with respect to including awareness of the Convention in the training of police officers. How did the complaints procedure described in paragraph 30 function under the different Federal, State and Territorial systems? What measures were applied to ensure that decisions made in one jurisdiction were applied in another? He asked for information on the occurrence of indirect racial discrimination in Australia and whether the introduction of the 1991 amendment to subsection 9 (1) of the Racial Discrimination Act (1975), described in paragraph 31 of the report, had had a positive impact on such discrimination.

10. With regard to equal opportunity legislation and the Council for Aboriginal Reconciliation Act (paras. 34-40 of the report), he asked whether the complaints and conciliation measures provided for in the former, such as the procedure set out in paragraph 187 for enforcement of conciliation decisions, would also apply in the reconciliation process set out in the latter. Paragraph 76 detailed the land grants made under the Aboriginal Land Rights (Northern Territory) Act 1976; had any further land claims been made since those grants or were any claims still outstanding?

11. The broadcasting services for non-English speakers described in paragraphs 85-91 of the report appeared to be very satisfactory and awards for excellence in Aboriginal affairs reporting had been established. Were there any plans to extend such services and what was their range?

12. He welcomed the reference in paragraph 109 to the fact that the introduction of civil and criminal provisions on racial vilification and violence was being examined, and that consideration was being given to the withdrawal of the declaration contained in Australia's instrument of ratification of the Convention. He urged that the process of bringing Australian legislation into conformity with article 4 of the Convention should be accelerated, especially in view of the declaration Australia had made under article 14. Noting that 65 of the 67 recommendations made by the Race Discrimination Commissioner (para. 115) had been accepted, he said he could understand the reasons for rejection of recommendation 15 but would like further information on why recommendation 37 (para. 126) had not been found acceptable.

13. Turning to article 5 of the Convention, he noted that an effort was being made to coordinate existing legislation with a view to improving prevention of discrimination in various areas, such as employment and housing. How was that undertaking progressing? With reference to enforcement proceedings in the Federal Court of Australia in conciliation cases (para. 187), had any such proceedings been initiated?

14. Mrs. SADIQ ALI, welcoming the report, which was a model of its kind, said that in future it might be useful to separate information relating to discrimination against Aboriginal peoples from that relating to members of other non-English speaking communities. Did the figure for the total number of immigrants, 645,238, include all those who were not English-speaking? There were many inadequacies in the current law. In the next report, she would like to see information on what had been done to improve the lot of non-English speaking people, whose complaints of discrimination appeared to relate, in particular, to access to goods and services, and to places, facilities and employment.

15. No mention had been made in the report of the status of Christmas Island and the Cocos (Keeling) Islands, which had a combined population of some 3,600. It was believed that the colonial legacy in those territories had resulted in outdated laws that did not protect some basic human rights. What was being done in that field by the Government of Australia?

16. Mr. AHMADU expressed his satisfaction with the report, which was of considerable interest to him as a citizen of another federal State. However, much of the information relating to the Aboriginal peoples dealt with action envisaged for the future. He hoped that future reports would give more space to action that had actually taken place. The disadvantages in access to employment and training suffered by the Aboriginal and Torres Strait Islander peoples (para. 159 of the report) had been mentioned, as had the high level of crime and other problems affecting them. Although such peoples made up only a small proportion of the total population of Australia, that was no reason why they should not be accorded proper importance.

17. The immigration statistics for Australia (para. 7) included a small proportion of immigrants from Africa. He asked from which part of Africa such immigrants came.

18. A large part of the section (paras. 92-108) dealing with implementation of article 3 of the Convention appeared somewhat out of date; he looked forward to more recent information on that subject in a future report. Although apartheid had been abolished by name, racial discrimination still occurred in many aspects of life in South Africa, a country that was still not yet a party to the Convention. Noting that a young Asian had recently been elected a Senator in Australia, he asked whether any Aborigine had achieved the same position. With regard to Australian policy on the granting of entry visas, he would like to know whether practices differed according to the nationality of the applicant, since cases were known where persons of African origin had had difficulties in obtaining immigration visas. If information could not be provided at present, he would like to see it in the next report.

19. Mr. SONG Shuhua said that Australia's commitment to the Convention was clear; it was understandable that changing a society so as to eliminate racial discrimination was not always an easy task. The history of the Aboriginal peoples in the colonial period made clear how much was now due to them. The Mabo judgement marked a turning point, although he felt its scope might be limited. He therefore welcomed the new developments in Australia to amend legislation in favour of its indigenous peoples, for whose fate he felt deep concern.

20. Referring to the package of government programmes described in paragraphs 45 and 46 of the ninth report, he asked whether the Government had plans to involve the indigenous population in the development of mineral resources, mining interests having been one of the sources of conflict in the past. He noted the measures taken in regard to training and education, although many problems persisted. He had observed at first hand during a visit in 1981 that one of the main difficulties of the indigenous people in defending their land rights, for instance, was the lack of lawyers and the necessary expertise. He asked what the current situation was. He had also observed many Aboriginals in menial jobs, but seldom in white-collar jobs. He appreciated the difficulty of bringing the indigenous population into the mainstream of society while respecting its cultural traditions, and requested more information on how cultural identity was preserved in the context of Australia's integration policies. He gave credit to the Australian Government and its representatives for acknowledging the disparities between the indigenous and non-indigenous population and the fact that the former was still disadvantaged in many areas. He asked to what extent the indigenous people participated in the development of legislation. Involvement in law-making was crucial to their future. On the subject of Aboriginal deaths in custody, he expressed concern about the prevalence of maltreatment by the police, and urged the State party to take account of the Committee's general recommendations, especially general recommendation XIII (42) on the training of law enforcement officials. In conclusion, he welcomed the information, which, if he were not mistaken, indicated that the indigenous people might enjoy self-government by the year 2001. He understood that to be one of their aspirations, and hoped that the transition would proceed smoothly.

21. Mr. SHAHI, observing that the Committee would have required more time to consider the abundant information now before it, said that the replies of the members of the Australian delegation showed that they belonged to a generation of Australians that was laudably endeavouring to redress the historic wrongs done to the indigenous people. Of particular significance were the Mabo case and the enactment of the Native Title Act giving effect to the decision of the High Court of Australia in that case. Considering the difficulties in implementing the Act and the problems experienced by indigenous people in proving their title to land, he hoped that the Native Title Act would be of substantive and not just symbolic value in righting the injustice of dispossession. He had noted that only between 5 and 10 per cent of Aboriginals were expected to benefit from the Act.

22. While appreciating the affirmative action taken to employ Aboriginals in government services, he thought there was a special need for further affirmative action in recruitment to the public services, especially the

police force, and in police training and education. In general, affirmative action strategies, programmes and legislation needed to be stepped up.

23. With reference to article 2 of the Convention, he sought clarification of the statement in Australia's written responses to Mr. Banton's questions that treaties signed and ratified by the Executive Government did not have any binding force in domestic law. What was the exact status of the Convention in the federal legal system of Australia? If Queensland or another provincial legislature sought to annul the decision handed down by the High Court of Australia in the Mabo case, what were the powers of the federal Government to frustrate such a move?

24. He paid a tribute to Australia's policy in regard to its immigrant population, noting and endorsing the comment in its responses to Mr. Banton's questions that Australia was virtually free of minority problems. Australia enviably exemplified a truly modern State that did not perpetuate or maintain differences among ethnic groups. He supported Mr. Ahmadu's request for clarification, however, of Australia's policies for granting immigration visas. He knew of bona fide cases of family reunion in which visas had been refused without any reasons being given.

25. Mr. YUTZIS associated himself with other members' comments, adding that the periodic report gave a full picture of the situation in Australia and was exemplary in its compliance with the reporting system recommended by the Committee.

26. The CHAIRMAN, speaking in a personal capacity, praised Australia's genuine efforts to establish a just and fair society and its exemplary record of cooperation with the Committee. He noted that Australia was among the few States parties that had made the declaration under article 14 of the Convention, and that it had been among the first to notify the Secretary-General of its acceptance of the amendment to the Convention approved by the States parties and concerning the funding of the Committee.

27. Mr. TICKNER (Australia) said that his Government's appreciation of the Committee's warm response to the Australian report and replies did not mean that it would allow itself any complacency in dealing with human rights issues. Turning to members' questions and comments, he said that his Government's written responses to the very comprehensive range of issues submitted by Mr. Banton had been redrafted and circulated to Committee members. He would now be replying to points made during the Committee's meetings.

28. In response to Mr. Banton's further concerns about Commonwealth supervision of the implementation by State and Territory Governments of the recommendations of the Royal Commission into Aboriginal Deaths in Custody, he admitted that that was a difficult issue, since two thirds of the Commission's recommendations had been directed towards State and Territory Governments and concerned matters of day-to-day administration in which the Commonwealth had limited capacity to enforce compliance. Issues such as police, prisons and criminal justice reform had traditionally been regarded as matters within the exclusive jurisdiction of State and Territory Governments. A question had been raised concerning the Commonwealth role in disseminating information

about improved policing practice in New South Wales to other State and Territory institutions. The matter could be raised at a national meeting of police ministers, but had not yet been discussed. However, the Commonwealth Government would continue to ensure the implementation of the recommendations and he himself was pursuing his initiative to use national forums of police and prison ministers, in which the Commonwealth participated, for that purpose. He had recently held discussions with the Commonwealth Attorney-General to that effect. Attendance by the Aboriginal and Torres Islander Social Justice Commissioner and the Chairperson of the Aboriginal and Torres Strait Islander Commission (ATSIC) at the next meeting of Attorneys-General would help to speed up the process.

29. In response to Mr. Banton's question about the ongoing Commonwealth role concerning the town of Toomelah, he said that he could add little to the written response already supplied except to stress that, although living conditions there had been considerably improved, Toomelah was one of hundreds of Aboriginal communities in which living conditions needed to be further addressed.

30. In reply to another question by Mr. Banton about the extent of the success of the Aboriginal and Torres Strait Islander Electoral Information Service (ATSIEIS), he said that two reviews of the programme since its inception in the late 1980s had expressed strong support for the programme and its involvement at the local government level and in urban areas. A further review was to be undertaken in 1994-1995 of the Australian Electoral Commission Remote Areas Program. There was evidence of significantly increased enrolment and participation in elections by indigenous people throughout Australia. Their increased voting power in key marginal seats would no doubt encourage political parties to be increasingly aware of the need to respond to indigenous aspirations.

31. Mr. van Boven had properly expressed concern about the use of the term "grant" rather than "restitution" in the Northern Territory Land Rights Act. Although the terminology was enshrined in the Act, he himself, as the Minister who administered the relevant legislation, always sought in public pronouncements to encourage an awareness that land being returned under the Act was in fact being restored to its original owners. There was as yet no provision in Australian law for a right to compensation for loss of lands.

32. On the subject of Australia's ratification of International Labour Organisation Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries, indigenous people had asked for further time to consider the matter, since some believed that the Convention did not go far enough. Further consultations would be held in the coming months. He himself strongly supported ratification and hoped to persuade those against it that ratification would not erode indigenous rights but would provide a further important argument in support of those rights.

33. Regarding the status of Royal Commission recommendations not accepted by the States, there were in fact very few that were not formally accepted; the real challenge was to ensure that the Governments complied with their commitments and implemented the recommendations. Mr. van Boven had also rightly made the point that Commonwealth funding would not solve all the

problems, and that indigenous people should be recruited into the police and prison services. One of his own personal initiatives had been to allocate resources to State and Territory Governments for that very purpose. Although he agreed with Mr. van Boven that the disproportionate number of indigenous people in custody was the common condition of disadvantaged people in societies, the Committee should be aware of the Australian Government's concern for the specific range of concerns connected with the position of indigenous people, including the issues underlying their marginalization.

34. There had been no new developments regarding the draft racial vilification legislation, which the Government still intended to reintroduce. Regarding the extent of political participation by indigenous people, there were regrettably no indigenous members of the Federal Parliament, although a former Liberal Senator had served in that Parliament until the early 1980s. There was only one indigenous member of a State Parliament, a former minister in the former Government of Western Australia. There were two Aboriginal members of the Legislative Assembly of the Northern Territory, and there was an increasing number of indigenous members of local government councils, but probably still fewer than 50. There was also increasing indigenous participation in trade unions and in business, supported by the national representative bodies and actively promoted as part of the reconciliation process. He had taken an initiative, with government support, to ensure that indigenous representatives were employed in all State and Territory unions. To their credit, the Australian Government and the Australian Chamber of Industry and Commerce were working in partnership to advance the rights of the indigenous people, and were also very sensitive to the rights of non-English-speaking people.

35. It was difficult to provide any precise data about the extent to which procedures for individual communications under article 14 of the Convention were known. The Human Rights and Equal Opportunity Commission had, however, a key role to play in encouraging community awareness of the rights available under the Convention.

36. To Mr. Aboul-Nasr's question about the role of the Social Justice Commissioner in relation to the implementation of recommendations made by commissions of inquiry and his own reports, he replied that the central purpose behind the creation of that post was that the Commissioner should be independent of the day-to-day administration of government. He was the human rights watchdog for the indigenous people. Mr. Aboul-Nasr had also rightly emphasized, in connection with the return of land to Aboriginal people, that what was needed was action and not further inquiries. The latest data confirmed that approximately 16 per cent of the Australian mainland was now under the recognized ownership of Aboriginal people, a figure which excluded land to be returned under the Native Title Act.

37. Mr. Aboul-Nasr had asked why the process of reconciliation between Aboriginal and non-Aboriginal Australians was expected to take until the year 2001. In fact, the reconciliation process was intended to act as a focus for deeper changes which would inevitably take many years to complete. There was an accumulated backlog of human need in the fields of employment, housing

and many other areas. Long-term public awareness and public education campaigns would be required to overcome the false and stereotyped images portrayed by the education system and the media.

38. Mr. Diaconu had asked about the trend for Aboriginal people to move to urban areas. It seemed clear that most Aboriginal people did live in cities and towns, but more up-to-date information would be available on the completion of a survey currently being undertaken by the Australian Bureau of Statistics. There had been some very interesting developments in the Northern Territory, in which Aboriginal people had regained ownership of their traditional lands and returned to live there. He wished to make it clear that the reconciliation process was a national initiative designed to apply both in urban areas and in more remote parts of the country.

39. Mr. Diaconu had asked about potential conflicts between the anti-discrimination laws adopted by the various States and Territories. In fact, most discrimination cases were resolved by conciliation: a small percentage were referred to a public hearing, and only a very small number were brought before a court. Moreover, the Federal Court and the High Court of Australia had jurisdiction across the whole country and were therefore able to ensure uniformity of the law in key areas.

40. Mr. Diaconu had asked whether the proposed legislation on racial vilification would enable the Government to ban certain organizations in accordance with article 4(b) of the Convention. The final form of the legislation had not yet been decided, but the Australian Government had noted that other countries with similar common law systems, such as the United Kingdom, Canada and New Zealand, had not considered it necessary to ban racist organizations in order to meet their obligations under the Convention.

41. Mr. Diaconu had stressed the importance of combating discrimination against all racial groups. That was certainly the Australian Government's objective, as shown by the specific initiatives described in the ninth periodic report.

42. Mr. de Gouttes had suggested that the table in paragraph 188 of that report giving the number of complaints of alleged racial discrimination should have given details of the outcome of the complaints. That was a constructive suggestion, which the Government would try to adopt in subsequent reports.

43. Mr. de Gouttes had asked how the Australian Government monitored the implementation of the many human rights initiatives and avoided duplication of reports. It was true that monitoring was a considerable task and the potential for duplication did exist, but there was good cooperation between the key human rights agencies, which helped to reduce the problem.

44. Mr. de Gouttes had also asked which recommendations of the Royal Commission into Aboriginal Deaths in Custody had already been implemented. The best data available were those contained in the annual reports of the Commonwealth, State and Territory Governments, submitted to the Federal Parliament. He would send copies of those reports to the Secretariat. There had been some criticisms of the Commonwealth report, and the Government was considering ways of improving the reporting process.

45. Finally, Mr. de Gouttes had asked whether the proposed national legislation on racial vilification would enable Australia to abandon its reservation on article 4 of the Convention. The enactment of such legislation would certainly make it easier to do so, but it was not the only factor which had to be taken into account.

46. Mr. DODSON (Australia) said that the principle of compensation for Aboriginal people, mentioned by Mr. van Boven, had not yet been incorporated into Australian law. The High Court judges who had considered the issue had been unable to agree, and it might be necessary to await further judicial pronouncements before a final decision was made; a number of cases were already pending before the courts. Many Aboriginal people, including himself, were anxious to ensure compensation not only for lost land, but also for the social, economic and cultural deprivation of the Aboriginal people over many years. He was also anxious to ensure that any compensation which was eventually awarded should not be reduced because of payments made in the meantime, for instance, from the National Aboriginal and Torres Strait Islander Land Fund.

47. Mr. van Boven had also asked whether Australia intended to ratify International Labour Organisation Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries. He was not so convinced as his colleague, Mr. Tickner, of the value of that instrument, and many other indigenous people were even less enthusiastic, but he could see that it had some potential benefits. However, the Australian Government would have to ensure that indigenous people were fully informed about the implications of the ILO Convention so that they could decide in full knowledge of the facts whether ratification would be in their best interests.

48. He agreed with Mr. van Boven that only a limited number of indigenous people would benefit from the Native Title Act 1993, and he was also seriously concerned that some of its provisions were inconsistent with Australia's Racial Discrimination Act and thus with the Convention. For instance, section 7, subsection (b), of the Native Title Act specifically disallowed the application of the Racial Discrimination Act for the purpose of validating existing title to land. He also had doubts about the provision that native title might be held corporately or in trust, since that might be inconsistent with both the Convention and the International Covenant on Civil and Political Rights.

49. Mr. Aboul-Nasr had asked about the sense of national identity of Aboriginal people in Australia. It was a complex issue, but he believed that Aboriginal people were not suffering the same crisis of identity that seemed to be afflicting the rest of the nation.

50. He had been asked about his own role as Social Justice Commissioner of the Human Rights and Equal Opportunities Commission. The Commission was completely independent of the Government: in some limited cases, the Government could ask him to report on issues affecting indigenous people, but it could not tell him what to say. Indeed, he and his five fellow commissioners often vigorously disagreed with government policy.

51. On the subject of diversity of judgements, he said that the Federal Court and the High Court had the final say in questions of interpretation of common law and the Constitution. They could - and did - overturn the decisions of State or Territory judiciaries if they were inconsistent with Commonwealth law, the Constitution or judicial precedent.

52. Mr. de Gouttes had asked how the many bodies responsible for human rights avoided duplication of their efforts. He would be a happy man if he knew the answer to that problem: at one time, the small island of Thursday Island in the Torres Strait had been home to no less than 47 government departments. It was an important issue which had to be tackled if indigenous people were to achieve social justice and counter disadvantage.

53. With regard to the statement by his colleague, Mr. Tickner, he himself had sharply criticized the position taken by the Commonwealth Government concerning the recommendations of the Royal Commission into Aboriginal Deaths in Custody. He appreciated that two thirds of the recommendations were aimed not so much at the Commonwealth Government as at State and Territory Governments, but the Commonwealth Government nevertheless had an obligation to do everything in its power to ensure that the recommendations were implemented.

54. Mr. van Boven had asked for details of measures to increase public awareness of the possibility of individual petitions to the Committee under article 14 of the Convention. He would try to ensure that the information was contained in the next periodic report.

55. In reply to the points raised by Mr. Wolfrum earlier in the meeting, he said that the Mabo case applied to only a small number of people, although the principle involved had subsequently been introduced into national legislation in the Native Title Act 1993. Applicants for native title had to prove a traditional connection with their land, but that connection need not necessarily be a physical one, so the Act might apply to more people than one might think at first sight. By the time Australia submitted its next report, the National Native Title Tribunal, established under the Act, would have adopted some decisions, which would provide better evidence of the Act's application in practice. The National Aboriginal and Torres Strait Islander Land Fund applied to a rather larger group of people who could not prove an historical connection with their land or whose native title had been extinguished.

56. Mr. Valencia Rodriguez had asked about Federal Court intervention in the conciliation decisions of the Human Rights and Equal Opportunities Commission. He had no information on that point, but would provide it later. At present, the Commission and other human rights bodies lodged their "determinations" (i.e. their opinions following a public hearing) with the Federal Court Registry, which gave them the force of a Federal Court order, but the constitutionality of that procedure was currently being challenged in the High Court. If it was declared unconstitutional, it might have to be reviewed.

57. Mr. Song had asked what role indigenous people played in the development of legislation. Indigenous people had no actual power to pass legislation,

but they lobbied the legislators actively and submitted suggestions for the wording of legislation in areas which affected them. In other words, they had the same access to democratic power as all other groups in Australia, and they were perhaps more determined than some to make use of it.

58. Mr. Shahi had asked about the status of the Convention in Australia. The Convention was appended to the Racial Discrimination Act and thus formed part of Australia's domestic legislation. Complaints to the Human Rights and Equal Opportunities Commission were expressed in terms of a breach of the relevant provisions of the Convention.

59. Mr. TICKNER (Australia) said that more land had been returned to Aboriginal ownership than Mr. Wolfrum had indicated. Land all over Australia had been returned to indigenous ownership, even before any decisions of the National Native Land Tribunal.

60. Mr. Wolfrum had asked whether national or aboriginal law prevailed in areas such as environmental protection. In fact, indigenous land was not considered sovereign territory in Australia, so that in matters of national concern, such as environmental protection, the State or Territory law would prevail.

61. Mr. Wolfrum had asked about the proportion of Aboriginal people and Torres Strait Islanders in the civil service. There was a strategy for the recruitment of indigenous people into public sector employment at State, Territory and Federal level, which had enjoyed some success. An Aboriginal woman had just been appointed chief executive officer of the Aboriginal and Torres Strait Islander Commission. At present, the proportion of indigenous people in that Commission was 40 per cent, and the figure was increasing.

62. Mr. Wolfrum had asked how the Mabo decision would increase the extent of Aboriginal land ownership in practice. The decision was, above all, highly symbolic, showing that the Australian nation was at last coming to terms with its own history, but it would also have significant practical importance for those indigenous people who met its criteria. Sizeable areas of land would be returned to indigenous ownership, yet without threatening the rights of non-Aboriginals.

63. Mr. Wolfrum had asked for statistics about real improvements in the conditions of Aboriginals and Torres Strait Islanders. He had to admit that no proper statistics on improvements in health, employment, housing and enjoyment of human rights were yet available. His Government was committed to improving its statistics and keeping track of improvements in the status of indigenous people. The survey currently being undertaken by the Australian Bureau of Statistics was an important part of that endeavour.

64. In reply to Mr. Wolfrum's question on the lifting of a sentence passed on an Aboriginal offender tried under customary law, he said the most recent information indicated that the High Court was facing a dilemma in that the sentence had not been carried out. In general, customary law did not operate in Australia to the extent that the indigenous population would like and indigenous groups were pressing for increased government action.

65. With regard to Australia's treatment of refugees and in particular of "boat people", he could not comment on the case referred to by Mr. Wolfrum. However, it was safe to say that Australia's intake of refugees and displaced persons was one of the highest in the world. In the years 1992 and 1993, people of more than 60 nationalities had been admitted to Australia, which testified to the Government's non-discriminatory response to the refugee problem. However, a fierce public debate was in progress concerning the acceptance of "boat people", some sectors of the population fearing that they were being given preferential treatment. In July 1993, changes had been made in Australia's immigration policy. The Refugee Status Review Committee had been replaced by a quasi-judicial Refugee Review Tribunal made up of independent members. The final decisions of the Tribunal were subject to judicial review by the Federal Court on certain specific grounds. The Tribunal's procedures were non-adversarial. Applicants for refugee status were entitled to be accompanied by a legal adviser and an interpreter.

66. Referring to the question raised by Mr. Valencia Rodriguez on community programmes, particularly with respect to police officers' education on the Convention and its aims, he said he was not familiar with the details of police training. However, they did receive full training in observance of the law and broader issues relating to indigenous people.

67. It had been asked whether the addition of section 9 (1A) to the Racial Discrimination Act had resulted in additional complaints and court cases. Information was not available on that point, but the amendment broadened the application of the Act to the benefit of complainants.

68. With regard to the question on the Aboriginal Land Rights (Northern Territory) Act 1976 and the extent to which claims had been met, he said that the Act was now operating according to plan and land was being returned to traditional claimants. Delays between recommendations being made by the Land Commissioner and the granting of land were a thing of the past.

69. Replying to the question on awards for high quality broadcasting, he said that the Government of Australia had no plans to expand the system, but that the media had shown great interest.

70. It had been asked why the Government of Australia had not accepted recommendation 37 of the National Inquiry into Racist Violence. An explanation was to be found in paragraph 126 of the report.

71. As requested by Mrs. Sadiq Ali, future periodic reports of Australia would provide more detail on action to prevent discrimination against the non-English-speaking community. It should be remembered, however, that a common thread running through all the Government of Australia's human rights policies was opposition to discrimination in any form, including discrimination against non-English-speaking people.

72. With regard to the question on the human rights of the inhabitants of the Cocos (Keeling) Islands, written information would be included in the tenth periodic report.

73. A question had been put on the assimilation of indigenous populations. The policy of the Government of Australia was guided by the belief that indigenous peoples had the right to self-determination, in accordance with the principles of the draft Universal Declaration on Indigenous Rights.

74. In connection with the question regarding African immigration, he said that although Australian policy had been discriminatory in the past, the Government was now proud of its non-discriminatory policy on immigration.

75. In reply to the question on Australia's action under article 3 of the Convention, he said that the Government had established close ties with the newly-elected Government of South Africa and warmly welcomed the changes that were taking place there.

76. Reference had been made to the lack of lawyers or legal expertise for indigenous people. As a result of the work of the Royal Commission on Aboriginal Deaths in Custody, funding for Aboriginal legal services had been increased by 50 per cent and serious efforts had been made to improve the situation.

77. Where respect for Aboriginal cultures and traditions was concerned, legislation was in force guaranteeing respect for Aboriginal culture and the protection of traditional sites. Some aspects of Commonwealth legislation had been deemed inadequate and indigenous people were pressing for its amendment.

78. Replying to the question whether indigenous peoples would be self-governing by the year 2001, he said that, thus far, that was not an element in the policy of the Government of Australia nor indeed an aspiration of indigenous people. However, the establishment of the Aboriginal and Torres Strait Islander Commission represented a major step forward with regard to self-determination for indigenous people.

79. Referring to the possibility of States overriding the Mabo decision, he said that given the importance of the International Convention on the Elimination of All Forms of Racial Discrimination, the Racial Discrimination Act and the Native Title Act, such action was out of the question.

80. Mr. BANTON (Country Rapporteur) commended the quality of the ninth periodic report of Australia and the extensive written replies to his questions, which were available for consultation in the Secretariat.

81. Australia's efforts to ensure the representation of the indigenous population and minorities in the mass media set an example for other States parties to the Convention and were of particular relevance to the Third Decade to Combat Racism and Racial Discrimination.

82. Mr. van BOVEN said that, in a departure from traditional practice, the delegation before the Committee had not spoken with one voice, given the presence of an independent expert. The frankness of the dialogue was to be commended, but, in terms of accountability and as a general principle, a delegation should follow a single line. The precedent had, however, produced fruitful results and the Committee might, in the future, consider whether other States parties should be encouraged to follow the same practice.

83. Mr. CHIGOVERA said that Australia had entered a reservation under article 4 (a), because it was not in favour of criminalizing racial discrimination and had opted for a conciliatory approach. He asked, however, whether the results had justified maintaining the reservation. It had been observed that Australia's current approach deprived some victims of racial discrimination of the opportunity to make complaints because of difficulties experienced in understanding the procedures involved. Furthermore, some explanation was needed of the statement in paragraph 42 of the ninth periodic report that the Royal Commission into Aboriginal Deaths in Custody "found that those who died did not lose their lives as a result of unlawful violence or brutality. They were found to have lived lives as victims of entrenched and institutionalized racism and racial discrimination".

84. Mr. SHAHI, referring to the 16 per cent of the land mass of Australia that was Aboriginal property, asked whether that figure related to urban plots or large areas of land, whether it was communal property, was self-governed and could be transferred to non-Aboriginals.

85. Mr. FERRERO COSTA said that the tenth periodic report should provide further details on the situation of ethnic groups other than Aboriginal people living in Australia. It should also inform the Committee of measures to implement article 4 of the Convention, particularly in view of the incidents described in paragraph 115 of the report.

86. Mr. WOLFRUM said that he was not fully satisfied with regard to the relationship between environmental legislation and Aboriginal rights, which could be a source of conflict. Further information should be included in the tenth periodic report. He did not agree that delegations of States parties should always speak as one; the composition of the delegation of Australia could provide a useful example for other States parties.

87. Mr. ABOUL-NASR said that, like Mr. Wolfrum, he fully supported the inclusion of an independent expert in the delegation of Australia, which testified not only to ongoing fruitful debate in that country but also to the Government's readiness to accept criticism and act upon it.

88. Mr. RECHETOV said that, like his colleagues, he fully supported the example shown by the delegation of Australia.

89. The CHAIRMAN, summing up the views expressed by the Committee, said that the presentation of the ninth periodic report of Australia, its quality and the wealth of information supplied by the high-level delegation provided an excellent example for other States parties to the Convention and the delegation's frank approach to working with the Committee had resulted in useful and constructive dialogue. The Committee had concluded the first part of its consideration of the ninth periodic report of Australia.

90. Mr. Tickner, Mr. Dodson and Mr. Willis (Australia) withdrew.

The meeting rose at 1.10 p.m.